



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,788	07/13/2006	Rick M. Salisbury	01714-21855.PROV.PCT.US	3084
20551 7590 09/12/2008 THORPE NORTH & WESTERN, LLP. P.O. Box 1219 SANDY, UT 84091-1219				
EXAMINER				
PATEL, KIRAN B				
ART UNIT		PAPER NUMBER		
3612				
MAIL DATE		DELIVERY MODE		
09/12/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/563,788

Applicant(s)

SALISBURY, RICK M.

Examiner

Kiran B. Patel

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☐ Claim(s) _____ is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Final Rejection (9/11/08)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-3, 5-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roethel (6,231,104) and Mallett (4,655,497) and further in view of the level of ordinary skill of a worker in the art.

Regarding claims 1-3, 5-13, Roethel (6,231,104) discloses the invention as claimed to include a fairing frame member 125 at least partially defining a shape for the fairing 10; multiple coupling portions 130, 120 positioned on the fairing frame member and configured to removably couple the frame member to the front portion of the motorcycle; and at least one flexible fairing cover 10 portion configured for attachment to and at least partially covering the fairing frame member 125; wherein said fairing frame member 125 and flexible fairing cover are detachable from the front portion of the motorcycle and operable to be reconfigured into a smaller configuration for storage Fig 1-3; wherein the fairing frame member 125 includes multiple support members 130, 120 operable to be removably coupled to each other to form the fairing frame member Fig 1-3; wherein the fairing frame member and at least one flexible cover includes a modular configuration that facilitates quick assembly/disassembly into smaller components Fig 1-3; wherein the flexible fairing cover 10 is formed of a material selected from a group consisting of canvas, vinyl, polymeric blends, leather, and synthetic leather Fig 1-3; wherein the flexible fairing cover may removably couple to the fairing frame member using an attachment means selected from a list consisting of snaps, releasable loops, and straps Fig 1-3; wherein the flexible fairing cover has an opening configured to fit around a headlight 20 on the front of the motorcycle Fig 1-3; wherein the opening is lined with an elastic material to fit

Deleted: 1-13

Deleted: Draper (4,457,555)

Deleted: and Watari (4,146,263).

Deleted: 1-13

Deleted: Draper (4,457,555)

Deleted: in Fig. 1-14

Art Unit: 3612

various shapes and sizes of headlights Fig 1-3; wherein the fairing is configured to attach to the front portion of a windshield Fig 1-3; wherein the fairing frame member is formed with a durable and rigid skeletal member Fig 1-3.

However, Roethel (6,231,104) does not disclose the fairing frame member comprising multiple removably interconnecting support members to include a middle portion, first and second side portions, and intermediate portions to define the shape of the fairing; and the multiple support members are at least partially formed with a tubular formation and can be coupled together in a telescopic/mating arrangement.

Mallett (4,655,497) discloses the fairing frame member comprising multiple removably interconnecting support members to include a middle portion, first and second side portions, and intermediate portions to define the shape of the fairing; and the multiple support members are at least partially formed with a tubular formation and can be coupled together in a telescopic/mating arrangement Fig 1-5.

It is within the level of ordinary skill of a worker in the art to provide fasteners usable without tools.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention, as disclosed by Roethel (6,231,104), to include the fairing frame member comprising multiple removably interconnecting support members to include a middle portion, first and second side portions, and intermediate portions to define the shape of the fairing; and the multiple support members are at least partially formed with a tubular formation and can be coupled together in a telescopic/mating arrangement, as disclosed by Mallett (4,655,497), and to incorporate fasteners usable without tools, to minimize the weight and minimize the folded size for easy and convenient storage.

Response to Arguments

2. Applicant's arguments with respect to elected claim have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Deleted: a support frame 46, a covering panel 10, a plurality of structural profile elongated elements 48, 50, 52 with transverse walls and end sections with parallel/right angle tabs, folding lines Fig. 8, 9

Deleted: Draper (4,457,955)

Deleted: means of folding, means of pressing, and a slot ¶

Deleted: means for folding and means for pressing.

Deleted: Watari (4,146,263) discloses in Fig 9 a slot near 19d ¶

Deleted: Draper (4,457,955)

Deleted: means of folding, means of pressing, and a slot

Deleted: Watari (4,146,263)

Deleted: the level of ordinary skill of a worker in the art

Deleted: cost effectively manufacture the structural parts and their respective assemblies. ¶

Deleted: Response to Arguments ¶
 -#>Applicant's arguments filed 5/23/03 have been fully considered but they are not persuasive. ¶
 In response to applicant's argument that the references fail to show, teach or suggest certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., providing structure for closing an opening through a truck cab after removal of the rear window and supporting frame thereof;) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 25 USPQ2d 1057 (Fed. Cir. 1993) ¶

Deleted: -#>THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of ¶

Formatted: Bullets and Numbering

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiran B. Patel whose telephone number is 571-272-6665. The examiner can normally be reached on M-F 8:00 to 5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Formatted: Bullets and Numbering

5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Formatted: Bullets and Numbering

/Kiran B. Patel/

Kiran B. Patel P.E.

Primary Examiner,

Art Unit 3612

Deleted: ¶

Formatted: Left, Indent: Left: 0 pt, First line: 0 pt

Deleted: ¶

¶